

REMARKS

Claims 9-11, 13-30, 35-52, 54-69, 117-123, and 131-134 are pending in the present application, of which claims 117-121, 131, and 132 have been withdrawn from consideration. Claims 60, 66, and 134 have been amended to merely correct typographical errors and do not present new matter. Reconsideration of the above-identified application, in light of the following remarks, is respectfully requested.

Allowed Subject Matter

In the Office Action of September 20, 2005, the Examiner acknowledged the allowable subject matter of claims 133 and 134. Applicant appreciates the Examiner's favorable review.

Claim Rejections

Claims 40-52, and 54-59 are allowable

The Examiner has rejected claims 40-42, and 50 as being obvious over Bennett et al. (US Patent No 4,507,535) in view of Andreoli et al. (US Patent No 5,225,649). Applicant respectfully traverses the rejection of these claims.

Independent claims 40, and 50 each recite, *inter alia*, suctioning a web of material to a driven rotatable drum and cutting the web with a laser beam projecting from the interior of the drum through slots within the drum.

In contrast with the claimed invention, Bennett discloses a web tensioned against and driving a rotatable mask, and a laser beam directed through an aperture in the mask. As the Examiner acknowledges on page 2, line 18, of the Final Rejection mailed September 20, 2005, Bennett does not disclose suctioning the web to a power driven drum.

The Examiner therefore relies on Andreoli to disclose suctioning a web to a power driven roller having transversely extending grooves. However, as MPEP § 706.02(j) states, in order for a *prima facie* case of obviousness to be established, there must be a reasonable degree of success in the combination of references. There is no disclosure or suggestion in the prior art that the modification of Bennett in view of Andreoli would result in a reasonable degree of success. Bennett specifically discloses a hollow drum 14 against which a web must be tensioned to drive the hollow drum. The drum of Bennett is hollow such that the laser heads can be positioned therein. No structure even exists in the relatively thin wall of the hollow drum to

accommodate a suction device. Indeed, there is no motivation to disregard the tension driven arrangement of Bennett to incorporate a suction system and separate power driven motor to drive the drum. Further, even if motivation did exist, the drum 11 of Andreoli, on the other hand, is a solid mass with radial openings 14 connected to a suction source. The hollow drum of Bennett clearly can not accommodate the solid structure of Andreoli. Additionally, Bennett can not be modified to employ a solid mass drum with internal suction chambers as taught by Andreoli since such a modification would prohibit the lasers 88, 92 of Bennett from being positioned within or entering the interior of the drum to perform the cutting operation. Thus there is no reasonable expectation of success for the combination of the cited references, and further, the modification of Bennett with Andreoli would defeat the purpose of the invention in that it would prevent the lasers from being able to enter the drum to perform the cutting operation. Accordingly, the Examiner has not established a *prima facie* case of obviousness.

For the foregoing reasons, Applicant respectfully submits that independent claims 40 and 50 are allowable over Bennett and Andreoli, considered alone or in combination. Because independent claims 40 and 50 are allowable, claims 41-49, and 51-59 are also allowable at least for depending therefrom.

Moreover, dependent claims 41-49, and 51, 52, 54-59 are further allowable for reciting additional features not disclosed by the prior art relied upon by the Examiner. For example, claim 41 recites maintaining suction after cutting; claims 42-43, 47, 49, 51-52, 54, 59 recite specific features of the cutting operation; and claims 44-46, 48, 55-58 recite specific features of the web. Such features are not disclosed or suggested by the cited prior art as claimed. At least for these reasons, dependent claims 41-49, 52, and 54-59 are further allowable over Bennett and Andreoli, whether considered alone or in combination. Withdrawal of the rejection applied to claims 40-52, and 54-59 under 35 U.S.C. § 103(a) as allegedly being obvious over Bennett in view of Andreoli, is respectfully requested.

Claims 30, 35, 37-39 are allowable

The Examiner has rejected claims 30, 35, 37-39, 44-46 as being obvious over Bennett in view of Andreoli, and further in view of Kendall (WO 98/16430). Independent claim 30 recited, *inter alia*, suctioning a web of material to a driven rotatable drum and cutting the web with a laser

beam projecting from the interior of the drum through slots within the drum. As previously noted, neither Bennett nor Andreoli, alone or in combination, disclose the claimed method. Kendall is directed merely to laser cutting a web of material, and therefore does not disclose or suggest the claimed invention. Hence, applicant respectfully traverses the rejection of these claims for the same reasons set forth in the discussion of claims 40-42, and 50 above. Therefore, withdrawal of the rejection of these claims is respectfully requested.

The Examiner has rejected claim 36 as being obvious over Bennett in view of Andreoli, and Kendall, and further in view of Snellman (US Patent 5,611,949). Claim 36 is allowable at least for depending from claim 30. Applicant therefore respectfully traverses the rejection of claim 36 for the same reasons set forth in the discussion of claims 30 above. Furthermore, the prior art does not disclose or suggest the use of a galvanometer driven optic in the manner claimed. Therefore, withdrawal of the rejection of claim 36 is respectfully requested.

Claims 9-11, 13-15, 17-19, 21, 22, 25-29, 60, 64, 67, 69, 122, and 123 are allowable

The Examiner has rejected claims 9-11, 13-15, 17-19, 21, 22, 25-29, 60, 64, 67, 69, 122, and 123 under 35 U.S.C. § 103(a) as being unpatentable over Boccia (US Patent No 4,094,729) in view of Howard (US Patent No 3,986,914) and Kendall (WO 98/16430). Applicant respectfully traverses the rejection of claims 9-11, 13-15, 17-19, 21, 22, 25-29, 60, 64, 67, 69, 122, and 123.

Independent claims 9, 13, 25, 60, and 122 each recite, *inter alia*, forming a bag having a fastener with first and second interlocked members and cutting the fastener with a laser beam to divide the fastener into segments having opposing ends, wherein the first and second members remain interlocked between the opposing ends of the fastener during the cutting operation.

In contrast to the claimed invention, Boccia discloses forming a bag having a fastener with first and second interlocking members which are deliberately separated prior to the cutting operation. As Boccia states in column 2, lines 59-60, "to open the profiles, the film layers and the interlocked profiles are fed over a separating finger 19". In addition to separating the interlocking members prior to cutting, Boccia explicitly discloses forming a bag with the interlocking members in the open position. That is, the profiles of Boccia's interlocking members are not engaged between ends of the bag (see, column 4, lines 3-6 wherein "the rib and groove elements will be in unlocked position along the rest of the bag thereby permitting closing

of the bag after it is filled"). Thus Boccia clearly does not disclose forming a bag having the fastener members remaining interlocked during the cutting operation, as the Examiner acknowledges on page 6, line 18 of the Final Office action mailed September 20, 2005.

The Examiner therefore relies on Howard (U.S. Patent No. 3,986,914) to disclose engaging interlocking members between the ends prior to cutting. However, there can be no motivation for combining these references since the explicit aim of the Boccia reference is to form a bag wherein the interlocking members are not engaged. Boccia specifies in column 1, lines 10-13, that "the invention relates to improvements in methods and mechanism for forming bags with interlocking continuous fasteners or zippers thereon wherein the bags are formed of a thin plastic film, and delivered with the profiles in separated condition." Boccia further states that it is desirable "to have an open bag to fill which does not have to be opened by a separate operation" in column 2, lines 3-5. Therefore any suggestion of interlocked fastener profiles forming a closed bag, if disclosed by Howard, would completely contradict the explicit objective of Boccia. Accordingly, Boccia clearly is in opposite with Howard, as well as the claimed invention. It therefore would be inappropriate to disregard the express objective of Boccia, to provide a method as claimed. The rejection set forth by the Examiner therefore does not establish a prima facie case of obviousness.

Furthermore, the Examiner recognizes that neither Boccia nor Howard disclose the use of a laser to cut or seal the fastener. The Examiner therefore must introduce a third reference Kendall (WO 98/16430) for disclosure of a laser in the relevant art. However, Kendall actually is directed to forming seals which are spaced inward from the end of the bag. The seals of Kendall being indicated by the dashed lines in Figure 1 which are created by beams 6, while beam 5 cuts the bags to thereby define the end segments. Therefore Kendall does not disclose operating a laser to cut or seal the fastener at the ends of the bag as claimed. Accordingly, the rejection set forth by the Examiner therefore does not establish a prima facie case of obviousness.

For the foregoing reasons, Applicant respectfully submits that independent claims 9, 13, 25, 60, and 122 are allowable over Boccia, Howard, and Kendall, considered alone or in combination. Because independent claims 9, 13, 25, 60, and 122 are allowable, claims 10-11, 14-24, 26-29, 61-69, and 123 are also allowable at least for depending therefrom.

Moreover, dependent claims 10-11, 14-24, 26-29, 61-69, and 123 are further allowable for reciting additional features not disclosed by the prior art relied upon by the Examiner. For example, claims 10, 14-19, 21, 24, 26-28, 64-65, 67, 69, 123 recite details of the cutting operation, and claims 20, 22, 23, 29, 35, 41, 61-63, 66, 68 recite features of the drum. Such features are not disclosed or suggested by the cited prior art as claimed. At least for these reasons, dependent claims 10-11, 14-24, 26-29, 61-69, and 123 are further allowable over Boccia, Howard, and Kendall, whether considered alone or in combination. Withdrawal of the rejection applied to claims 9-11, 13-15, 17-19, 21, 22, 25-29, 60, 64, 67, 69, 122, and 123 under 35 U.S.C. § 103(a) as allegedly being obvious over Boccia in view of Howard and Kendall, is respectfully requested.

Formal Request for Interview

If the present application is not considered to be in condition for allowance, Applicant requests an interview with the Examiner to discuss the present application and the prior art of record. Applicant's Attorney Daniel J. Hulseberg may be reached at telephone number (212) 294-3310 to schedule a mutually convenient date and time and to provide assistance or additional information as required.

CONCLUSION

On the basis of the foregoing Remarks, Applicant respectfully submits that the pending claims of the present application are allowable over the prior art of record. Applicant thus respectfully requests that the previous rejections of the pending claims be withdrawn. Applicant further requests that claims 119-121 be rejoined with the pending claims and fully examined for patentability under 37 C.F.R. § 1.104. Claims 9-11, 13-30, 35-52, 54-69, 117-123, and 131-134 are in condition for allowance. Favorable consideration and timely allowance of this application are respectfully requested.

Applicant submits that this Request for Reconsideration does not raise new issues for consideration or necessitate the undertaking of any additional search of the art by the Examiner because all of the elements and their relationships were either earlier claimed or inherent in the

claims as examined. This Request for Reconsideration therefore allows for immediate action by the Examiner.

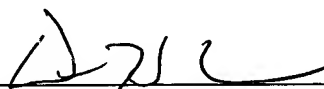
Applicant also submits that entry of this Amendment After Final and the accompanying Remarks would place the present application in better form for appeal, should the Examiner dispute the patentability of any of the pending claims.

Applicant authorizes the Commissioner to charge any fees (including fees for extra claims) and/or credit any overpayments associated with this paper to Winston & Strawn Deposit Account No. 50-1814, Ref. No. Ref. No. 86012-29300-USPT

Further, if a fee is required for an extension of time under 37 C.F.R. § 1.136 not provided for above, Applicant requests such extension and authorizes the charging of the extension fee to Winston & Strawn Deposit Account No. 50-1814, Ref. No. Ref. No. 86012-29300-USPT.

Respectfully submitted,

Dated: November 21, 2005



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